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EXAMINER

VU, NGOC K

| ART UNIT | PAPER NUMBER |
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2611

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,940

Applicant(s)

PRICE ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/14/02.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-17, 19-27 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al. (U.S. 5,758,257 A).

Regarding **claim 1**, Herz discloses a method of presenting content to a user, comprising:

creating a user profile based upon a plurality of inputs by user, the user profile representing preference characteristics of the user (for example, creating a customer profile from a questionnaire by asking for obtaining customer's demographics, customer's zip code area, or several of his/her favorite movies and television shows – see col. 6, lines 42-45; col. 11-12, lines 59-10; col. 13, lines 40-49);

maintaining the user profile at a use location (storing the customer profile in a customer terminal for that customer's household – see col. 25, lines 13-15; col. 45, lines 56-59);

receiving at the user location a set of parameters defined for at least one content, the set of parameters originating from a source of contents (content profile is received at the terminal from a headend, wherein the content profile describes the contents of video programs – see col. 45, lines 11-14);

correlating the user profile with the set of parameters at the user location to determine whether parameters in the set of parameter match preference characteristics in the user profile (at the customer terminal, the content profile is compared mathematically to customer profile to

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generate an agreement matrix which establishes the degree of correlation between the preferences of the customer and the video programming. This is accomplished by calculating the agreement matrix which matches the characteristics desired by customer with corresponding characteristics of the video programs – see col. 47, lines 37-45; col. 10, line 6-12; col. 42, lines 37-45);

reporting a match from the user location to the source of contents when a sufficient number of the parameters match preference characteristics in the user profile (a feedback provided from the terminal to the headend includes the customer profile information and viewing habit information. The feedback is used in conjunction with the agreement matrix to improve customer profile and content profile and hence to improve program schedules. The video programming available at the headend is scheduled on customized channels in accordance with the customer profile and in which a subset of the programming on the customized channels available to each customer is selected using the agreement matrix for presentation to the customer as virtual channel tailored to that customer's characteristic profile. It is noted that the video programs with the highest values for ac , i.e., the closest distance and hence closest match to the customer profile are prioritized and selected for presentation as virtual channels or as the programming channels – see col. 25, lines 16-31; col. 29, lines 31-51 and col. 30, lines 6-10).

Regarding **claim 13**, Herz discloses a method of presenting content to a user, comprising:

creating a user profile based upon a plurality of inputs by user, the user profile representing preference characteristics of the user (for example, creating a customer profile from a questionnaire by asking for obtaining customer's demographics, customer's zip code

area, or several of his/her favorite movies and television shows – see col. 6, lines 42-45; col. 11-12, lines 59-10; col. 13, lines 40-49);

maintaining the user profile at a use location (storing the customer profile in a customer terminal for that customer's household – see col. 25, lines 13-15; col. 45, lines 56-59);

receiving at the user location a set of parameters defined for at least one content, the set of parameters originating from a source of contents (content profile is received at the terminal from a headend, wherein the content profile describes the contents of video programs – see col. 45, lines 11-14);

correlating the user profile with the set of parameters at the user location to determine whether parameters in the set of parameter match preference characteristics in the user profile (at the customer terminal, the content profile is compared mathematically to customer profile to generate an agreement matrix which establishes the degree of correlation between the preferences of the customer and the video programming. This is accomplished by calculating the agreement matrix which matches the characteristics desired by customer with corresponding characteristics of the video programs – see col. 47, lines 37-45; col. 10, line 6-12; col. 42, lines 37-45);

generating a match signal when a sufficient number of the parameters match preference characteristics in the user profile, and sending the match signal from the user location to the source of the content (the video programming available at the headend is scheduled on customized channels in accordance with the customer profile and in which a subset of the programming on the customized channels available to each customer is selected using the agreement matrix for presentation to the customer as virtual channel tailored to that customer's characteristic profile. It is noted that the video programs with the highest values for ac, i.e., the closest distance and hence closest match to the customer profile are prioritized and

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selected for presentation as virtual channels or as the programming channels. A feedback provided from the terminal to the headend includes the customer profile information and viewing habit information. The feedback is used in conjunction with the agreement matrix to improve customer profile and content profile and hence to improve program schedules – see col. 25, lines 16-31; col. 29, lines 31-51 and col. 30, lines 6-10).

Regarding **claim 25**, Herz discloses a system for receiving and presenting content at a user location, comprising:

a profiling agent (e.g., user identifier) to create a user profile based upon a plurality of inputs by user, the user profile representing preference characteristics of the user (creating a customer profile from a questionnaire by asking for obtaining customer's demographics, customer's zip code area, or several of his/her favorite movies and television shows – see col. 6, lines 42-45; col. 11-12, lines 59-10; col. 13, lines 40-49);

a storage device (e.g., memory within the set top terminal) configured to store the user profile (storing the customer profile in a customer terminal for that customer's household – see col. 25, lines 13-15; col. 45, lines 56-59);

a receiver (e.g., tuner within the terminal) configured to receive a set of parameters defined for at least one content, the set of parameters originating from a source of contents (content profile is received at the terminal from a headend, wherein the content profile describes the contents of video programs – see col. 45, lines 11-20);

a processor (e.g., processor within the terminal) configured to correlate the user profile with the set of parameters at the user location to determine whether parameters in the set of parameter match preference characteristics in the user profile (at the terminal, the content profile is compared mathematically to customer profile to generate an agreement matrix which establishes the degree of correlation between the preferences of the customer and the video

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programming. This is accomplished by calculating the agreement matrix which matches the characteristics desired by customer with corresponding characteristics of the video programs – see col. 47, lines 37-45; col. 10, line 6-12; col. 42, lines 37-45), and to generate a match signal when a sufficient number of the parameters match preference characteristics in the user profile (the video programming available at the headend is scheduled on customized channels in accordance with the customer profile and in which a subset of the programming on the customized channels available to each customer is selected using the agreement matrix for presentation to the customer as virtual channel tailored to that customer's characteristic profile. It is noted that the video programs with the highest values for ac , i.e., the closest distance and hence closest match to the customer profile are prioritized and selected for presentation as virtual channels or as the programming channels - see col. 25, lines 16-31; col. 29, lines 31-51 and col. 30, lines 6-10); and

a transmitter (e.g., telephone interface) configured to send the match signal from the user location to the source of the content (a feedback provided from the set top terminal to the headend includes the customer profile information and viewing habit information. The feedback is used in conjunction with the agreement matrix to improve customer profile and content profile and hence to improve program schedules – see col. 25, lines 16-31; col. 29, lines 31-39; col. 30, lines 6-10; col. 42, lines 46-49 and figure 10).

Regarding **claims 2 and 17**, Herz discloses ac values, i.e., the closest distance ($1/ac$) from calculation of the agreement matrix (see col. 25, lines 21-30).

Regarding **claims 4 and 19**, Herz discloses that the weighting of the characteristics in the customer and content profiles somewhat depends on how the profiles were determined initially (see col. 13, lines 40-42).

Regarding **claims 5 and 14**, Herz discloses that the headend stores the program defined by the content profile for selectively sending the programs represented by the match to the user (see col. 25, lines 49-53; col. 22, lines 57-63 and col. 29, lines 31-39).

Regarding **claims 6, 7, 15, 16, and 27**, Herz discloses receiving and storing the programs at the customer terminal (see col. 22, lines 57-65).

Regarding **claims 8 and 20**, Herz discloses that the content profile presents the program characteristics and wherein the program is sent when the headend receives a match signal via the feedback from the customer terminal (see col. 29, lines 31-39).

Regarding **claims 9 and 21**, Herz discloses receiving the content profiles and the programs defined by the content profiles (see col. 25, lines 16-18).

Regarding **claims 10 and 22**, Herz discloses sending an acknowledgment, e.g., passive monitoring feature, that the customer is likely to view the content (see col. 42, lines 1-11; col. 26, lines 8-21).

Regarding **claims 11 and 23**, Herz discloses that the program includes infomercials (see col. 4, lines 32-40).

Regarding **claims 12 and 24**, Herz discloses that the program includes music and music video (see col. 4, lines 32-40).

Regarding **claim 26**, Herz discloses that the memory within the set top terminal configured to store the content profile (see col. 45, lines 17-20).

Regarding **claim 30**, Herz discloses a TV display to present the program to the customer (see figures 9-10).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. 4. Claims 3, 18, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (U.S. 5,758,257 A).

Regarding **claims 3 and 18**, Herz teaches calculating ac values for determining a match of program to the customer profile, and the customer terminal provides feedback to the headend for selecting the programs based on the matching (see col. 25, lines 16-30 and col. 30, lines 6-10). Herz does not explicitly teach presenting a percentage of matches. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the value ac of Herz by providing a percentage value for effectively presenting the value of matches.

Regarding **claims 28 and 29**, Herz teaches that the user identifier and the memory are in the customer terminal (see figures 9 and 10). Herz does not explicitly teach the terminal is a digital video recorder. Official Notice is taken that a customer terminal in the television system includes a digital video recorder comprising receiver and processor component is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the terminal of Herz by including a digital video recorder to provide recording feature.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Seidman et al. (US 6,298,482 B1) disclose a system for two-way digital multimedia broadcast and interactive services.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu
Examiner
Art Unit 2611

November 12, 2004